

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO. 5:14-CV-150

Geraldine L. VanDevender, Administrator)
of the Estate of Del Ray Baird, deceased,)
and Jacqueline Ann Baird, deceased,)
Ralph D. Jones, Jr., Norwood R. Jones,)
and Lisa J. Pate, Co-Executors of the)
Estate of Elizabeth J. Jones, deceased, and)
Joyce K. Harrison, Administrator of the)
Estate of Bettie Mae Kee, deceased, and)
Samuel Kee, Sr., Individually,)

Plaintiffs,)

v.)

Blue Ridge of Raleigh, LLC d/b/a Blue)
Ridge Health Care Center, Raleigh)
Regional Rehab Center, LLC, d/b/a)
Crabtree Valley Rehab Center, Care)
Virginia Management, LLC d/b/a)
CareVirginia, N.C. Management)
Holdings, LLC and Care One, LLC d/b/a)
CareOne,)

Defendants,)

NOTICE OF REMOVAL

Please take notice that:

In accordance with 28 U.S.C. §§ 1441 and 1332, Defendant Care One, LLC, hereby gives notice of the removal of this action from the North Carolina Court of Justice, Superior Court Division, Wake County, to the United States District Court for the Eastern District of North Carolina, Western Division. In support of this Notice of Removal, Care One, LLC avers as follows:

1. Plaintiff Geraldine VanDevender is the Administrator of the Estate of Del Ray Baird, who was a citizen and resident of Onslow County, North Carolina at the time of his death.

2. Plaintiffs Norwood “Randy” Jones, Ralph “Don” Jones, Jr. and Lisa J. Pate are the Co-Executors of the Estate of Elizabeth J. Jones, who was a citizen and resident of Wayne County, North Carolina at the time of her death.

3. Plaintiff Joyce K. Harrison is the Administrator of the Estate of Bettie Mae Kee, who was a citizen and resident of Northampton County, North Carolina at the time of her death.

4. Defendant Care One, LLC is a limited liability company whose members are citizens of the State of New Jersey. As a result, Care One, LLC, is a citizen of the state of New Jersey. *Central West Virginia Energy Co., Inc. v. Mountain State Carbon, LLC*, 636 F.3d 101, 103 (4th Cir. 2011) (“For purposes of diversity jurisdiction, the citizenship of a limited liability company [] is determined by the citizenship of all of its members [].”).

5. Defendant Care Virginia Management, LLC d/b/a CareVirginia is a limited liability company whose sole member is Care One, LLC. Because Care One, LLC is a citizen of New Jersey, Care Virginia Management, LLC, is also a citizen of New Jersey.

6. Defendant Blue Ridge of Raleigh, LLC d/b/a Blue Ridge Health Care Center is a limited liability company whose members are citizens of the State of New York and the State of New Jersey.

7. Defendant NC Management Holdings, LLC is a limited liability company whose members are citizens of the State of Florida.

8. Defendant Raleigh Rehab Center, LLC d/b/a Crabtree Valley Rehab Center is a limited liability company whose members are citizens of the State of Florida.

9. On December 23, 2013, Plaintiffs filed a Complaint in the Superior Court of Wake County, North Carolina captioned *Geraldine L. VanDevender, Administrator of the Estate of Del Ray Baird, deceased, and Jacqueline Ann Baird, deceased, Ralph D. Jones, Jr., Norwood R. Jones, and Lisa J. Pate, Co-Executors of the Estate of Elizabeth J. Jones, deceased, and Joyce*

K. Harrison, Administrator of the Estate of Bettie Mae Kee, deceased, and Samuel Kee, Sr., Individually v. Blue Ridge of Raleigh, LLC d/b/a Blue Ridge Health Care Center, Raleigh Regional Rehab Center, LLC, d/b/a Crabtree Valley Rehab Center, Care Virginia Management, LLC d/b/a CareVirginia, N.C. Management Holdings, LLC and Care One, LLC d/b/a CareOne, Case No. 13-CVS-16932 (“the State Court Action”).

10. On January 28, 2014, Plaintiffs filed an Amended Complaint in the Superior Court of Wake County, North Carolina. Pursuant to 28 U.S.C. § 1446(a), copies of the Summons and Amended Complaint are attached hereto as **Exhibit A**.

11. On or about February 3, 2014, the undersigned accepted service on behalf of Defendants Blue Ridge of Raleigh, LLC and Care Virginia Management, LLC.

12. On or about February 11, 2014, Care One, LLC was served via mail with the Amended Complaint.

13. On or about February 20, 2014, Defendant NC Management Holdings, LLC was served via mail with the Amended Complaint.

14. On or about February 20, 2014, Defendant Raleigh Rehab Center, LLC was served via mail with the Amended Complaint.

15. The Defendants have not filed a responsive pleading in the State Court Action.

16. The State Court Action is removable under 28 U.S.C. §§ 1332 and 1441(b) as the Federal District Court has original jurisdiction based upon diversity of citizenship between the parties and the amount in controversy exceeds the statutory minimum of \$75,000.00.

17. Defendant Care One, LLC is entitled to remove this entire action pursuant to 28 U.S.C. § 1441.

18. Defendant Care One, LLC's appearance is for the sole purpose of removing the State Court Action. By removing this action, Defendant Care One, LLC does not waive any of its rights, including jurisdiction defenses.

19. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because Defendant Care One, LLC has filed it within thirty (30) days of its receipt of the Amended Complaint and all Defendants who were properly joined and served in the State Court Action have joined and consented to the removal of this action.

20. The Eastern District of North Carolina, Western Division, is the United States District Court and division embracing the place where the State Court Action is pending. Therefore, the State Court Action may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

21. Upon filing this Notice of Removal with this Court, Defendant Care One, LLC will promptly file a copy of the same with the Clerk of Superior Court for Wake County, North Carolina. Defendant Care One, LLC will also promptly serve written notice of this Notice of Removal on Plaintiff's counsel in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, Defendant Care One, LLC prays that this cause proceed in this Court as an action properly removed thereto.

Respectfully submitted, March 13, 2014.

[SIGNATURE PAGE TO FOLLOW]

/s/ Gregory W. Brown

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Management, LLC d/b/a Care Virginia, and Care
One, LLC d/b/a CareOne*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the March 13, 2014, the foregoing **NOTICE OF REMOVAL** was filed electronically via the Court's CM/ECF case management system and served on all parties as follows:

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/s/ Gregory W. Brown

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